



Rural Task Force Mission and Purpose

**Rural Task Force
White Paper 1
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The Rural Task Force is an independent advisory panel appointed by the Federal-State Joint Board on Universal Service to provide guidance to the Federal Communications Commission and the Joint Board. Opinions expressed in this white paper are the collective view of the Rural Task Force membership and are not intended to represent the views of organizations to which each member is affiliated or those of the FCC or the Joint Board.

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Rural Task Force White Paper No. 1

Rural Task Force Mission and Purpose

I Introduction

This is the first white paper in a series by the Rural Task Force (Task Force or RTF). This paper provides an overview of the policy and legal basis for the work of the Task Force. A second white paper will examine available data to show the broad diversity among rural telephone companies (Rural Carriers or RTCs), and their difference from non-Rural Carriers (or NRTC's).

As federal universal service policy evolved following the passage of the Telecommunications Act of 1996 (1996 Act), it became evident that there was a need to establish separate processes to consider universal service reform for rural and non-rural carriers.¹ As part of its May 8, 1997 Universal Service Order, the Federal Communications Commission (Commission or FCC) called for the establishment of a Rural Task Force to "identify the issues unique to rural companies and analyze the appropriateness of proxy models for rural companies."²

The Task Force was established in July 1998.³ With growing awareness of the need for separate consideration of issues related to Rural Carriers, the role of the RTF has also evolved.

This white paper is intended to provide an understanding and delineation of the relevant policy issues confronting the Task Force. The paper will also serve as an important foundation as the RTF investigates appropriate universal service support mechanisms and policies for high-cost rural and insular areas served by Rural Carriers, including the continuation or adaptation of the

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat.56 (1996 Act).

² Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, FCC 97-157, 12 FCC Record 8776, (1997) (May 8 Order), Paragraph 253. Also see Texas Office of Public Utility Counsel v. FCC, No. 97060421, 1997 WL 556461 (5th Cir. July 30, 1999).

³ Public Notice, Federal State Joint Board on Universal Service Announces Rural Task Force Members, FCC 98J-1, CC Docket No. 96-45 (July 1, 1998).

current system of support, or a system based on forward-looking cost models, or some other mechanism consistent with the universal service and pro-competitive provisions of the 1996 Act.⁴

II Commitments and Responsibilities of the Rural Task Force

To date, federal efforts to reform universal service to implement the 1996 Act have focused primarily on non-Rural Carriers and the competitive local exchange carriers (CLECs) that provide service to high cost areas served by non-rural carriers. While non-rural carriers and CLECS also provide service to rural and insular areas, a substantial portion of their customer base is in urban-dominated markets. In adopting the Joint Board's first universal service reform recommendations, the Commission said that non-Rural Carriers would be the first to shift to a new proxy cost mechanism based on forward-looking economic cost (FLEC). The FCC determined, "consistent with the Joint Board's recommendation, rural carriers would gradually shift to a support system based on forward-looking economic cost at a date the Commission will set after further review, but in no event starting sooner than January 1, 2001."⁵ The FCC also decided that a Task Force should aid the Joint Board in its further review of the universal service plan for Rural Carriers. The Joint Board, accordingly, issued a public notice announcing the establishment of this Task Force. The Joint Board said the RTF would focus solely on studying the establishment of a FLEC cost mechanism for [Rural Carriers],⁶ and specifically on whether the platform or design features for a Rural Carrier proxy cost mechanism should be different from the plan for non-Rural Carriers.⁶

Subsequent events have given the Task Force a broader scope for its deliberations. The FCC has modified its original mandate and timing for applying a FLEC mechanism for Rural Carriers. It has now clarified that federal universal service reform for Rural companies⁶ is not to

⁴ Rural Task Force Mission Statement, Objective 1, see Appendix A.

⁵ May 8, 1997, Order, paragraph 204. Also see Texas Office of Public Utility Counsel v. FCC, No. 97060421, 1997 WL 556461 (5th Cir. July 30, 1999).

⁶ Public Notice, Federal-State Joint Board on Universal Service Announces the Creation of a Rural Task Force; Solicits Nominations for Membership on Rural Task Force, CC Docket No. 96-45, FCC 97J-1 (released

occur before 2001 at the earliest.⁷ Speaking to the United States Telephone Association in April 1998, Chairman Kennard said:

When it comes to our country's smaller, rural telephone companies B companies that serve one-third the nation's geography but only about 5% of the population B if it ain't broke, don't fix it. That may not be the way common carrier lawyers are supposed to talk, but that's really the way I feel.

I visited a small rural telco not too long ago and what I saw was a first-rate telecommunications operation. I didn't see anything that was broken and I had no desire to offer any fixes. The Commission has already taken explicit small company support, changed the way that support is collected to be consistent with the 1996 Act, and made that support portable between competing carriers. That's a lot of change for companies that are geographically very targeted and undiversified.

My bottom line is that universal service reform is something the Commission should do with the small rural carriers, not to them. The Joint Board will soon appoint the Rural Task Force, which I fully support as a means of developing a greater consensus on what further actions, if any, must be taken for universal service support to high cost areas served by small companies. But I also want to be clear on this point B I see no reason why further small company reform must begin in 2001. We should make changes only when it is right to make changes, and not before.

More recently, the Federal/State Joint Board on Universal Service officially moderated it's commitment to using a universal service support system based on a FLEC mechanism for the Rural Carriers, even as it moved forward towards implementing a support system based on a FLEC mechanism for non-rural carriers. The Second Recommended Decision cautions that Ain recommending this framework for determining non-rural carriers' high cost support based on forward-looking cost, we do not intend for the commission to create any precedent for any potential revisions to support mechanisms for rural carriers.⁸ The Joint Board went on to explain that:

September 17, 1997).

⁷ May 8 Order, Paragraph 221; see also, Address of FCC Chairman William E. Kennard to the National Telephone Cooperative Association (February 10, 1999) (ANor will we establish an arbitrary date for reforming universal service for the rural companies. That's why I also announced last year that if we do not have a universal service model that works for the rural companies by the year 2001, we are not going to force the issue.)

⁸ Federal State Joint Board on Universal Service, Second Recommended Decision, CC Docket No. 96-45, FCC 98-J7, Paragraph 30 (Joint Board, November 25, 1998).

The model platform that the Commission adopted in October was designed to estimate non-rural carriers' costs. Pursuant to the Joint Board's recommendation, the Commission has provided that the determination of the appropriate manner in which a model should be applied to rural carriers, if at all, will take into account the recommendation of this Joint Board, after the Joint Board receives a report from the Rural Task Force. The Joint Board intends to look closely at these issues to ensure that rural carriers' unique situations and challenges are addressed in the separate proceedings examining their high cost support mechanisms.⁹

A. Commitment to Explore Alternative Support Mechanisms

The Task Force has embraced the broader role that has evolved for it. On December 12, 1998, the RTF adopted a *Mission Statement, Objectives, and Principles* to guide its consideration of universal service support issues with respect to areas served by Rural Carriers. Consistent with the Joint Board's intention for thorough exploration of rural carriers' unique situations and challenges,¹⁰ the RTF commits to the following objectives:

- 1) The RTF should review a broad range of options including the continuation or adaptation of the current system of support, a system of support based on forward-looking cost models and any other mechanism consistent with the universal service support and pro-competitive provisions of the Act.
- 2) The RTF should identify issues, which are unique to carriers serving rural or insular areas and recommend means to address those unique characteristics.
- 3) Where necessary, the RTF should recommend transitional mechanisms, hold harmless provisions, or modifications to minimize adverse impacts to rural or insular consumers and to facilitate investment in modern telecommunications infrastructure by service providers serving rural or insular areas.

The Task Force also reaffirmed that a recommended support mechanism should be consistent with extending the benefits of a competitive telecommunications market to rural or insular areas and with the Act's principle of competitive neutrality.¹¹

B. Responsibility to Make Recommendations to Joint Board

⁹ Id. Chairman Kennard had expressed his broad view of the work of the Rural Task Force in testimony before the Senate Subcommittee on Telecommunications, chaired by Senator Burns of Montana, as early as July 1, 1998: "The Rural Task Force will study the needs of small companies and make a recommendation to the Joint Board, which will then issue a recommendation to the Commission about how universal service for small carriers should be restructured." Also, in a separate statement accompanying the May 8, 1997, Order, the federal Chairman of the Section 254 Joint Board said Rural Carriers remain "under the status quo for the foreseeable future, pending recommendations from the Rural Task Force to the Joint Board."

Charting the procedural course for resolving rural universal service issues, the FCC directed the Task Force to report to the Joint Board which, in turn, will report to the FCC. To ensure that the RTF's recommendations could be adequately considered before making further determinations on universal service reform for Rural Carriers, the FCC set a deadline based on completion of the earlier non-rural carrier universal service reform proceedings. Specifically, it stated that A[t]he RTF must submit [its] report to the Joint Board nine months after the date on which the Commission implements a FLEC mechanism for non-rural carriers.¹⁰ The Public Notice also instructed that the Joint Board's report evaluating the RTF recommendations be filed before the Commission issues a Further Notice of Proposed Rulemaking on a FLEC mechanism for rural carriers.¹¹

The FCC has decided to postpone implementation of its FLEC proxy cost model for non-Rural Carriers until January 1, 2000.¹² If the present schedule holds, the Task Force must submit its report and recommendations to the Joint Board by September 30, 2000. The Commission will delay implementation of support based on forward-looking costs for Rural Carriers at least until January 1, 2001, pending further review.¹³

C. Commitment to Factually Document Rural Differences

A universal service plan that works well in a competitive and deregulatory environment

¹⁰ Public Notice, Federal State Joint Board on Universal Services Announces Rural Task Force Members, FCC 98J-1, CC Docket No. 96-45 (released July 1, 1998).

¹¹ Id. The FCC had not yet formally broadened the scope of the Task Force's review.

¹² *Seventh Report and Order* and *Thirteenth Order on Reconsideration* in CC Docket No. 96-45 *Fourth Report and Order* in CC Docket No. 96-262, and *Further Notice of Proposed Rulemaking*, Released May 28, 1999. Extending date for implementation for non-rural carriers, Paragraph 21.

¹³ *First Report and Order*, 12 FCC Record at 8910, paragraph 254; 8917-18, paragraphs. 252-56. The *First Report and Order* determined that non-rural carriers should begin to receive support based on forward-looking costs on January 1, 1999. This implementation date was extended to July 1, 1999, in conjunction with the referral of issues back to the Joint Board. See *Federal-State Joint Board on Universal Service*, Order and Order on Reconsideration, 13 FCC Record 13749 (1998) (*Referral Order*). See also *Federal-State Joint Board on Universal Service Announces the Creation of a Rural Task Force; Solicits Nominations for Membership on Rural Task Force*, Public Notice, FCC 97J-1 (released September 17, 1997). The July 1, 1999, implementation date for non-rural carriers has been further

must avoid shortfalls, windfalls, and unnecessary regulatory costs. The plan must be simple and as administratively workable as possible. The Telecommunications Act of 1996 also requires that any universal service plans provide customers throughout the nation with just, reasonable and affordable rates, and access to advanced telecommunications and information services. One obstacle to overcome in designing a nationwide universal service mechanism is the difficulty in providing companies, with widely differing circumstances, sufficient support to accomplish these goals. One way of understanding the extent to which individualized tailoring is necessary for the success of any plan is to explore the differences between rural and non-rural carriers, and among Rural Carriers themselves. The Task Force is committed to developing factual documentation and analysis of those differences and the reader is directed to upcoming White Paper No. 2 for results of that analysis.

III. Congressional Choices C The Telecom Act of 1996

The statutory framework and underlying national policy objectives enacted by Congress in the 1996 Act are necessarily the touchstone for designing, implementing and evaluating a reformed universal service plan. The law sets the boundaries of any recommendation by the Task Force to the Joint Board and the FCC. Federal law provides for a universal service plan and governs the responsibilities of providers of telecommunications services to end users and other carriers. At the same time, the law embraces competition as national telecommunications policy.¹⁴ The Task Force's recommendation process will be faithful to the law. Universal service has been a guiding principle of state and federal telecommunications policy for many years. The 1996 Act spelled out universal service mandates and assigned the responsibility for achieving and paying for them with far greater specificity than the 1934 Act's general reference to making reasonably priced

modified by the FCC's May 28, 1999, Order, extending the date to January 1, 2000.

service Aavailable, so far as possible, to all the people of the United States.@¹⁵ Even with the greater statutory precision, however, Congress left it to the FCC to adopt rules to implement the law. The FCC-s rulemaking duties required interpretation of Sections 254 and 214, which provide the framework for designing federal and state plans, recovering high costs, compensating eligible high cost providers and modifying the federal support mechanism over time. This section briefly highlights several key components of the 1996 Act, which guide the work of the Task Force.

A. Principles of Universal Service

Recommendations to be offered by the Task Force clearly must comply with the universal service principles mandated by law. As outlined below, Congress has made a number of key choices that guide the FCC, Joint Board and RTF:

1. General Principles in Section 254(b)

The 1996 Act-s universal service policies articulated in Section 254(b) generally ensure that all individuals and businesses will have the opportunity to share not only the benefits of a nationwide telephone network, but also the benefits generated by the ongoing global transformation of the availability and uses of information.¹⁶ The Act broadens the traditional concept of universally available quality telephone service at just, reasonable and affordable rates to include a commitment to make available access to Aadvanced telecommunications and information services . . . in all regions of the Nation.@¹⁷ The law requires the FCC and a universal service Federal-State Joint Board to define the services that will receive federal support. The 1996 Act also enacts a program for ensuring nationwide progress as telecommunications and information

¹⁴ *Joint Explanatory Statement* at 1.

¹⁵ *Communications Act of 1934*, Section 1.

¹⁶ The Task Force notes the parallel language of Section 706 of the 1996 Act.

¹⁷ The 1996 Act also provides for discounts for schools, libraries and rural health care providers and support for low income consumers; but the Task Force is confined to high cost support for the areas served by rural carriers.

development unfolds, by requiring regular reexamination of an *evolving* definition of universal service pursuant to Section 254(c).

Section 254(d) of the 1996 Act requires all carriers that provide interstate service to contribute to support the costs of ensuring nationwide service and network development at affordable and *reasonably comparable* rates. The federal mechanism thus spreads the burden of maintaining and advancing a nationwide public switched network over all carriers and their customers. Section 254(f) provides that a state may adopt regulations not inconsistent with the FCC's rules to preserve and advance universal service. A state may adopt regulations providing additional definitions and standards to preserve and advance universal service within that state only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

The Act expressly sets a standard of adequacy for the federal universal support program in Section 254(e). The support must be *specific . . . explicit and sufficient to achieve the purposes of this section.* *Sufficient* support will accordingly be known by the results it produces. These results must achieve the universal service principles enacted in Section 254(b).

The Act also sets standards to prevent waste, windfalls and excessive expense for contributing carriers and their customers. Support may be provided only to a carrier designated as eligible pursuant to Section 214(e). In addition, Section 214(e) provides that any carrier that receives federal support *shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.* Finally, services that are not competitive must not support services that are subject to competition, and should not bear more

than a reasonable share of the joint and common costs of facilities used to provide those services.¹⁸ Again, results are what count.

The principles in Section 254(b) spell out the results Congress expects to achieve with the universal service mechanisms. But Congress also allowed the Joint Board and the FCC to adopt additional principles they found necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.¹⁹ In its May 8, 1997, Universal Service Order the FCC added the principle of competitive neutrality for support mechanisms, which the RTF must also take into account in framing its recommendations.²⁰

2. Specific Requirements for Universal Service in High Cost, Rural and Insular Areas

The law's emphasis on nationwide service availability and network development includes specific policy commitments for consumers in rural and insular service areas. Congress required that all rates be just, reasonable, and affordable.²¹ Section 254 also requires that consumers in rural and insular areas have access both to services, including information and advanced telecommunications services, and to rates that are reasonably comparable²² to those available to urban consumers. Section 254(g) requires geographic toll rate averaging for all interexchange services any provider offers, both among rural and urban consumers and from state to state. This toll averaging requirement expands significantly upon traditional state and interstate policies, including, for example, the interstate rate integration²³ policies that had incorporated Alaskan and insular service into the uniform toll rate schedule for calls of the same distance, duration and time of day.

¹⁸ Section 254(k).

¹⁹ Section 254(b)(7).

²⁰ May 8, 1997, Order at Paragraph 48. The FCC recognized, however, that given the complexities and diversity of the telecommunications marketplace it would be extremely difficult to achieve strict competitive neutrality.²⁴

3. Statutory Definition of Rural Telephone Company

In the 1996 Act Congress rejected a one size fits all approach for telecommunications companies, and enacted special provisions for rural telephone companies.²¹ The universal service provisions Congress adopted recognize that different conditions confront small, rural, and isolated companies and companies serving predominantly widely dispersed populations. Such circumstances account for the higher costs of service that are largely beyond the control of individual rural telephone companies serving rural and insular areas.²² In making its recommendations, the Task Force must take into account the statute's provisions regarding the carriers, customers and markets that are likely to fall behind if rates, services and network capabilities are left solely to market place forces. Therefore, the RTF will use the rural telephone company definition adopted in the 1996 Act and incorporated as the focus of the FCC's separate Rural Carrier universal service proceeding.²³

In their initial rulemaking proceedings to implement Section 254, the FCC and the Joint Board decided that particular problems beset formulation of a plan for areas served by rural telephone companies, thus warranting separate consideration of such concerns.²⁴ The FCC tied this separate consideration to the four-part definition of rural telephone company in the 1996

²¹ See The Telecommunications Act of 1996, Sections 251 (f), 214 (e), 254, and 253 (f).

²² An upcoming analysis, RTF White Paper No. 2, will explore and identify some of the factual patterns that make universal service support a necessity in certain types of markets. This more detailed picture of what factors influence the rural and insular cost equation, taken together with the development of the Task Force mission and purpose herein, will be helpful in targeting high cost support, moderating the burdens placed on the nation's end users to support universal service, recognizing state and federal responsibilities, and giving practical and concrete form to the Congressional principles. The paper will help to identify the conditions that make certain kinds of service areas cost more than others to serve.

²³ The term Rural Telephone Company (Rural Carrier or RTC) is meant to incorporate the statutory definition in Section 3 (47) of the Telecommunications Act of 1996 (47 U.S.C. Section 153 (37)) and its application in the FCC rules, adopted pursuant to CC 96-45, which set a separate schedule and additional scrutiny for rural telephone companies than for non-rural telephone companies. May 8, 1996 Decision, Paragraph 96. The FCC has recognized the self-certified Rural Telephone Companies listed in the FCC Public Notice of March 16, 1999, DA 99-459.

²⁴ May 8th Order at Paragraphs 216, 310.

Act.²⁵

Federal policy recognizes that both the timing and details of universal service reform for Rural Carriers may appropriately be different than for non-rural companies. The Act recognizes in several provisions the reality of the unique circumstances present in operating either an incumbent or competitive telecommunications business in the nation's more remote areas.²⁶ The 1996 Act precisely defines an RTC as a local exchange carrier operating entity to the extent that such entity qualifies under any of the following four standards:

- a. Carrier provides common carrier service to any local exchange carrier study area that does not include eitherC any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;
- b. Carrier provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;
- c. Carrier provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or
- d. Carrier has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

The fundamental broad mandate for reasonably comparable rural and urban services, rates and access to advanced telecommunications and information services applies to all rural, high cost, and insular areas. Nevertheless, the FCC's decision on Rural Carriers, coupled with the four-part definition, particularly recognizes that challenges to a provider's ability to provide universal service and to upgrade its network can arise from various conditions. Congress perceived that problematic conditions include the density-linked conditions addressed by parts (a) and (d) of the definition; the impediments to efficiency linked to a small customer base or small exchange area addressed by parts (b) and (c); and the remoteness of insular areas. The four-part

²⁵ Section 3 (47), 47 U.S.C. Section 153(37).

²⁶ Section 251(f), 253(e)(j), 214(c)(2) and (5).

definition also recognizes that not all of the same high-cost factors apply to any individual Rural Carrier.

4. Insular and Unserved Areas

Insular carriers have been granted special status for universal service protection under the 1996 Act, which specifically identified insular carriers as a separate category of carriers from "high cost" and "rural" carriers.²⁷ Although there is no complete definition of "insular," that term at least includes the U.S. island territories.²⁸ Insular areas not only have unique and higher cost characteristics than most other carriers because they are surrounded by hundreds of miles of ocean with unique weather patterns and topography, but also have lower penetration rates and lower incomes than most of the U.S. mainland. The Joint Board recognized the unique circumstances of insular carriers when it recommended that Rural carriers serving high cost insular areas . . . should continue to receive universal service support based on their embedded costs.²⁹ The FCC has not yet addressed this Joint Board Recommendation. For all other high cost carriers, the Joint Board recommended that costs be evaluated using forward-looking economic costs, implemented over a six-year transition period.³⁰ For the reasons stated above, the Commission's USF methodology should afford special treatment to insular carriers, from other carriers which are dissimilarly

²⁷ 47 U.S.C. Section 254(b)(3).

²⁸ Joint Explanatory Statement of the Committee of the Conference, Senate Conference Report No. 104-230, 104th Congress, 2d Session, 131(1996); *Universal Service First Report and Order*, 12 FCC Record 8776, 8995 (1996).

²⁹ *Recommended Decision*, 12 FCC Record 87, 307-08 (Joint Board, 1996). The Joint Board explained: "We recognize the special circumstances faced by carriers and consumers in the insular areas of the United States, particularly the Pacific Island territories. We note at the outset that carriers in these areas, like all other carriers, will be eligible for universal service support if they serve high cost areas. In their comments Vitelco and Puerto Rico Tel. Co. set out some of the problems that carriers in insular areas face in providing telephone service, such as increased costs of shipping equipment and damage caused by hurricanes and tropical storms. The Hawaii Division of Consumer Advocacy also notes because of Hawaii's remoteness from the mainland, carriers face high costs and technical obstacles in providing service. For these reasons . . . the Joint Board recommended the FCC stick with embedded costs to determine universal service support." *Id.*

³⁰ In this same discussion, the Joint Board repeated that it was recommending that high cost insular carriers should continue to use embedded costs until further review. *Id.* at 184.

situated, to ensure that their people are afforded the same advantages of universal service that other areas of the United States receive.

Section 214(e)(3) of the 1996 Act also recognizes that rural and insular America still has significant geographic areas not served by any carrier.³¹ If no carrier steps forward to provide services to an unserved community, the 1996 Act directs the FCC, with respect to interstate services, or the State commission, with respect to intrastate services,³² to determine which common carrier or carriers are best able to provide service to a requesting unserved community. While this provision of the Act may impact duties and obligations of both Rural Carriers and non-Rural Carriers, it could be an important issue in the determination of appropriate universal service policies applied to Rural Carriers. For example, the FCC has been studying the need for further service to Native American tribes and reservations.³³

Rural and insular high cost problems are not limited to unserved areas, to be sure. For one thing, the Rural Utilities Service (RUS) and Rural Telephone Bank (RTB) financing programs for carriers serving rural and insular areas operate under the explicit statutory purpose of Aassur[ing] the availability of adequate telephone service to the widest practicable number of rural users of such service.³⁴ This condition on such financing indicates that Congress has long recognized that universal availability in the rural and insular areas served by RUS and RTB borrowers requires more than the operation of marketplace forces. Consequently, sufficient support continues to be necessary for these areas even though past support mechanisms may have rescued them from unserved area status.

5. Exclusion of Rural Areas Served by Non-Rural Carriers

³¹ The FCC has authority to designate universal service support for Native Americans, Section 214 (e) (6).

³² Id.

³³ BO Docket No. 99-11.

³⁴ 7 U.S.C. Subsection 921. The Rural Electrification Act also directs the Administrator, in making loans, Ainssofar as possible, [to] obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users.@ Section 7 U.S.C. Section 922.

Non-Rural Carriers also serve some rural and insular, high-cost, and isolated areas. For example, some Bell Operating Companies receive support for serving the higher cost portions of their service areas. However, both the Commission in deciding to bifurcate its universal service reform proceedings for Rural Carriers and non-Rural Carriers; and Congress, in defining what carriers are rural, have recognized that rural telephone companies face greater difficulties in providing universal service to their limited subscriber bases and lack large urban areas to average or offset their rural area costs and characteristics. The Task Force has been asked specifically to recommend a support mechanism for Rural Carriers.³⁵ The FCC adopted the Joint Board's recommendation to define Rural Carriers as those carriers that meet the statutory definition of rural telephone company.³⁶

B. Additional Requirements for Areas Served by Rural Carriers

The 1996 Act explicitly recognizes that policies pertaining to competitive entry and universal service reform for companies meeting the rural telephone company definition may be appropriately different than for companies that do not meet this definition. Significantly, the 1996 Act gives State commissions latitude to make determinations based on local circumstances and influence the pace of competitive entry and universal service reform for Rural Carriers.

1. Section 214(e) B Eligible Telecommunications Carriers

In Section 214(e)(2) of the 1996 Act, Congress gives State commissions a role in deciding whether to designate multiple providers as eligible telecommunications carriers (ETCs) able to receive support for providing federally-defined universal services in a given area served by a Rural Carrier.³⁷ The State commission *may*, in the case of an area served by a Rural Carrier, and *shall*,

³⁵ May 8 Order, Paragraph No. 253.

³⁶ *Id.*, Section 310, citing 47 U.S.C. 153(37).

³⁷ The FCC has not adopted rate or service obligations for competitive ETCs.

in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by a State commission. Before designating an additional ETC for an area served by a Rural Carrier, moreover, the State commission is required to find that the designation is in the public interest.

Section 214(e)(5) defines the term “service area” for determining universal service obligations and includes an exception to the general rule for designating an additional ETC’s service area in a Rural Carrier’s area:

(5) SERVICE AREA DEFINED: The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under Section 410(c), establish a different definition of service area for such company.

2. Section 251(f) - Interconnection

Section 251(f)(1) of the 1996 Act exempts Rural Carriers from certain duties to interconnect and provide unbundled network access that apply to other incumbent LECs. State commissions must evaluate any bona fide request for interconnection or network elements to ensure that such a request to a rural ILEC for interconnection is not unduly economically burdensome, is technically feasible, and is consistent with universal service as defined in Section 254.

3. Section 253(f) - Entry Restrictions

For an area served by a Rural Carrier, Section 253(f) permits a State commission to require a CLEC to qualify as an ETC as a condition of providing telephone exchange service or exchange access throughout an RTC’s service area.³⁸ In effect, the law allows the State commission to

³⁸ Section 253. [47 U.S.C. 253] REMOVAL OF BARRIERS TO ENTRY (f) RURAL MARKETS.--It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone

examine public interest questions concerning a Rural Carrier's study area. This indicates Congress realized that unrestricted entry may not be beneficial to consumers in a rural ILEC area, but did not want to deny rural consumers the benefits of competition as soon as the state believed the market was ready.

C. Coordination of Federal and State Programs and Policies

The share of universal service support to be shouldered by federal and state jurisdictions has provoked considerable contention. In its Universal Service Order of May 8, 1997, the FCC had stated that the federal share of support for high-cost areas would be limited to 25% of the indicated amount. However, in its May 27, 1999, order the FCC said:

We explicitly reconsider and repudiate any suggestion in the *First Report and Order*³⁹ that federal support should be limited to 25 percent of the difference between the benchmark and forward-looking cost estimates, in favor of the more nuanced balancing of federal and state responsibilities outlined by the Joint Board. To the extent a state's resources are deemed inadequate to maintain affordable and reasonably comparable rates, the federal mechanism will provide the necessary support. We also adopt today the hold-harmless and portability principles recommended by the Joint Board.⁴⁰

The FCC also made it clear that it would not require a state to alter its existing support mechanisms or to implement a state fund in order to receive federal universal service support.⁴¹ However, issues related to the proper extent of state and federal responsibility have not been laid to rest. For example, there is debate over whether the Joint Board and FCC can adopt a standard

exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in Section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply--(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of Section 251(c)(4) that effectively prevents a competitor from meeting the requirements of Section 214(e)(1); and (2) to a provider of commercial mobile services.

³⁹ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Record 8776, 8801 (1997) (*First Report and Order*), as corrected by Errata, CC Docket No. 96-45 (released June 4, 1997). Also, see *Texas Office of Public Utility Counsel v. FCC*, No. 97060421, 1997 WL 556461 (5th Cir. July 30, 1999).

⁴⁰ Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45 and Fourth Report and Order in CC Docket No. 96-262 and Further Notice of Proposed Rulemaking, Released May 28, 1999, Extending date for implementation for non-rural carriers, Paragraph Number 3.

⁴¹ *Federal-State Joint Board on Universal Service*, Seventh Report and Order, CC Docket No. 96-45 (May 27, 1999) at Paragraphs 11 and 45. Also, see *Texas Office of Public Utility Counsel v. FCC*, No. 97060421,

for the federal support mechanism which would aggregate and limit the flow of the high-cost universal service support contributed pursuant to Section 254(d) on the basis of net state contributions and recovery of such federal high cost support.⁴²

IV Summary of Historical Explicit Federal Support Mechanism

A. Funds Existing Prior to the Act

The historic federal universal service support mechanism for rural ILECs (prior to the 1996 Act) consisted of three components: the high-cost fund, local switching support (known as dial equipment minutes (DEM) weighting), and long term support (LTS). These programs have been extremely successful in achieving a high level of subscribership to local phone service in the United States by keeping local rates affordable for those subscribers living in rural, insular and high-cost areas and in enabling Rural Carriers to upgrade and modernize their networks. Following is a description of the three components of this mechanism as they existed prior to changes made after passage of the 1996 Act.

1. High-Cost Fund

Under the FCC's Part 36 jurisdictional separations rules, all ILECs recovered a base of 25 percent of their loop costs from the interstate jurisdiction.⁴³ The high-cost fund allowed companies (with loop costs above 115 percent of the national average cost per loop) to recover additional revenue from the interstate jurisdiction beyond the initial 25 percent. Additional recovery from the interstate jurisdiction decreases the amount of costs that local companies would otherwise have to recover from the intrastate jurisdiction, thereby keeping rates affordable for local customers.

2. Local Switching Support (a.k.a. DEM Weighting)

1997 WL 556461 (5th Cir. July 30, 1999).

⁴² This debate does not affect the determination of support for schools, libraries or rural health care providers. Also see Texas Office of Public Utility Counsel v. FCC, No. 97060421, 1997 WL 556461 (5th Cir. July 30, 1999).

⁴³ 47 C.F.R. Part 36.

Local switching support, or DEM weighting, is a support mechanism which recognized that, historically, small LECs incurred higher per-minute switching costs than larger LECs due to their lack of economies of scale. It also recognized that customer access to an interexchange IXC required more switching equipment investment than customer access to local service. The DEM factor modified the allocation of central office switching investment between the inter- and intrastate jurisdictions. For LECs with fewer than 50,000 access lines, the interstate DEM factor shifted what would otherwise be intrastate costs to the interstate jurisdiction.⁴⁴ The weighting factor varied by the number of access lines per study area as follows:⁴⁵

Access lines in service	Interstate DEM Weighting factor
0 B 10,000	3.0
10,001 B 20,000	2.5
20,001 B 50,000	2.0
50,001 or higher	1.0

As can be seen, under DEM weighting, the smaller the company, the greater the weighting factor applied to switching costs which are allocated to the interstate jurisdiction.

3. Long Term Support (LTS)

LTS is a mechanism that provided ILECs that are members of NECA's common line pool with enough support to enable them to charge a nationwide average carrier common line (CCL) interstate access rate. Reducing the amount of loop costs that high-cost LECs must recover from IXCs through CCL charges helped to facilitate interexchange service in high-cost areas. A nationwide average CCL rate also promoted compliance with the geographic toll rate averaging mandate of the 1996 Act, which states that the rates an IXC charges subscribers in rural, insular and high-cost areas can be no higher than the rates that a carrier charges subscribers in urban areas.

⁴⁴ 47 C.F.R. Section 36.125(b).

⁴⁶ The total amount of LTS needed by the NECA pool was calculated by subtracting from the pool's projected revenue requirement the amount pooling carriers received in subscriber line charges (SLCs) and CCL charges, using a nationwide average CCL rate.

B. Basis of Support

Under these mechanisms, rural ILECs received universal service support based on their embedded (i.e. actual, historical or legacy) costs. The use of embedded costs for calculating high-cost support has allowed rural ILECs to recover their investments and expenses under the regulatory policies authorized prior to the 1996 Act for providing universal service. This cost recovery assurance mechanism has facilitated rural ILECs' investment in network modernization, a primary goal of the 1996 Act.⁴⁷

In its May 8, 1997, Universal Service Order, the FCC determined that because universal service support provides a large share of Rural Carriers' revenues, any sudden change in the support mechanisms may disproportionately affect their operations.⁴⁸ Accordingly, the Commission adopted the Joint Board's recommendation to allow Rural Carriers to continue to receive high-cost support based on their embedded costs at least until January 1, 2001.⁴⁹

C. Differences Among Companies

Under the historical high-cost support mechanism, ILECs with study areas of 200,000 or fewer loops receive a greater percentage of support for their above-average loop costs than those study areas with more than 200,000 loops.⁵⁰

⁴⁵ 47 C.F.R. Section 36.125(f).

⁴⁶ 47 U.S.C. Section 254(g).

⁴⁷ To accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans. 47 U.S.C. 151 et. seq.

⁴⁸ May 8, 1997 Universal Service Order, Paragraph 294.

⁴⁹ *Id.*, Paragraph 204.

⁵⁰ 47 C.F.R. Section 36.631(c), (d).

ILECs with study areas of 200,000 or fewer working loops recover from the fund an additional 65 percent of the unseparated cost per loop between 115 percent and 150 percent of the national average loop cost per loop, multiplied by the number of their working loops. This additional 65 percent, coupled with the 25 percent allocation to the interstate jurisdiction for all carriers, means that these companies allocate 90 percent of their loop costs that fall between 115 percent and 150 percent of the national average to the interstate jurisdiction. These carriers receive an additional interstate allocation of 75 percent of the cost per loop that exceeds 150 percent of the national average cost per loop. Coupled with the 25 percent base interstate allocation, this means that carriers recover 100 percent of their loop costs above 150 percent of the national average from the interstate jurisdiction.⁵¹

For ILECs with study areas of more than 200,000 working loops, the additional interstate allocation is as follows: 10 percent of costs between 115 percent and 160 percent of the national average, 30 percent of costs between 160 percent and 200 percent of the national average, 60 percent of costs between 200 percent and 250 percent of the national average, and 75 percent of costs in excess of 250 percent of the national average. DEM weighting is another example where the FCC recognized differences in cost based on the size of companies, and adjusted support accordingly.

V. The FCC is Taking Account of Rural Differences in Implementing the 1996 Act

A. Transition Plan Adopted in 1996

⁵¹ The Commission has placed a cap on the level of this fund that effectively limits the annual growth below what would otherwise occur from reported company data. During a period in which the cap on the fund is in place, certain carriers would not recover 100 percent of their loop costs in excess of 150 percent of the actual national average from the interstate jurisdiction.

In its May 8, 1997, Universal Service Order, the FCC recognized that rural ILECs require more time to adjust to any change in universal service support than do non-rural carriers.⁵² The FCC therefore adopted a transition plan⁵³ for rural ILECs that retains the same basic features of the historical support mechanisms B high-cost support, local switching support (a.k.a. DEM weighting), and long term support (LTS). The transition controls the growth of the universal service fund while also continuing to recognize that substantial investments are required in rural and insular areas to assure that they are not bypassed by the information age. The transition plan became effective on January 1, 1998, and remains in effect until rural ILECs move to an alternative method of support. The main components to the transition plan are as follows:⁵³

1. High-Cost Support

From January 1, 1998 through December 31, 1999, Rural Carriers calculate high-cost support using the current formulas. Beginning January 1, 2000, and until Rural Carriers transition to a new support mechanism, Rural Carriers will receive high-cost support for their average loop costs that exceed 115 percent of an inflation-adjusted nationwide average loop cost. The inflation-adjusted nationwide average cost per loop will be the 1997 nationwide average cost per loop as increased by the percentage change in the Gross Domestic Product Chained Price Index (GDP-CPI) from 1997 to 1998.

2. Indexed Cap

⁵² May 8, 1997 Universal Service Order, Paragraph 299.

⁵³ *Id.*, Paragraphs 299-318.

When a new high cost method is adopted for non-rural carriers, the FCC plans to recalculate the cap based on the costs of the Rural Carriers that remain under the transition plan. Until rural ILECs transition to a new high-cost support method, the FCC has decided to maintain a cap on the growth of the high-cost fund equal to the annual average growth in lines.⁵⁴

3. Local Switching Support (a.k.a. DEM Weighting)

Beginning January 1, 1998, the support amount previously generated by DEM weighting ceased to be recovered through interstate access charges and instead became recoverable through a component of the new universal service fund. In addition, as of January 1, 1998, and until rural ILECs transition to a new support mechanism, local switching support for a qualifying carrier is calculated by multiplying the carrier's annual unseparated local switching revenue requirement by a local switching support factor. The local switching support factor is the difference between the 1996 weighted and unweighted interstate DEM factors. If the number of a carrier's lines increased during 1997 or any successive year, such that the DEM weighting factor for 1997 or any successive year would be reduced, the carrier must apply the lower weighting factor to the 1996 unweighted DEM factor in order to derive the local switching support factor used to calculate universal service support.⁵⁵

4. Long Term Support (LTS)

As of January 1, 1998, LTS ceased to be recovered through interstate access charges and became recoverable from the new universal service high-cost fund. Also, as of January 1, 1998, and until rural ILECs transition to a new support mechanism, a rural ILEC's annual LTS is permitted to increase from its level of support for the preceding calendar year based on the

⁵⁴ Petitions for Reconsideration remain pending with the FCC on this issue.

⁵⁵ 47 C.F.R. ' 54.301(a).

percentage of increase in the nationwide average loop cost.⁵⁶ As a result, LTS is no longer a mechanism used to produce a nationwide average CCL rate.

5. Sale of Exchanges

As of May 7, 1997, and until Rural Carriers transition to a new support mechanism, Rural Carriers purchasing a high-cost exchange receive the same level of support per line as the seller received prior to the sale.⁵⁷

6. Portability of Support

Until rural ILECs transition to a new support mechanism, competitive eligible telecommunications carriers (CETCs) serving in a rural ILEC's study area receive universal service support based on the incumbent's per line support.⁵⁸ Currently CETCs receive an ILEC's per-line support to the extent that it captures the ILEC's subscriber lines or serves new lines in the ILEC's service area.

In addition, CETCs that provide service through unbundled network elements (UNEs) purchased from an ILEC are subject to a cap in the support they receive equal to the cost of the UNE. Specifically, CETCs using switching functionalities purchased as UNEs from an ILEC receive support that is the lesser of the UNE price for switching or the per-line DEM support of the ILEC, if any. CETCs using loops purchased as UNEs from an ILEC receive support that is the lesser of the UNE price for the loop or the ILEC's per line payment from high-cost loop support and LTS, if any.⁵⁹

In contrast to carriers providing service through UNEs, carriers providing service solely through resale of an ILEC's services are not entitled to receive universal service support directly

⁵⁶ 47 C.F.R. ' 54.303.

⁵⁷ 47 C.F.R. ' 54.305. Petitions for Reconsideration remain pending with the FCC on this issue.

⁵⁸ 47 C.F.R. Section 54.307(a)(1). Petitions for Reconsideration remain pending with the FCC on this issue.

⁵⁹ 47 C.F.R. Section 54.307(a)(3).

from federal universal service mechanisms. Instead, resellers receive the benefit of universal service support through the wholesale price of the services they are purchasing, which already includes the universal service support received by the ILEC.⁶⁰

On February 11, 1999, the Universal Service Administration Company (USAC) filed two letters with the FCC seeking clarification of how the Commission intends to interpret its support portability rules. USAC asked the FCC to clarify whether it intended to subtract amounts of support paid to a CETC from ILEC support levels in instances where a CETC has gained a new subscriber or line not previously served by the ILEC. USAC also sought clarification as to whether CETCs that do not participate in NECA's common line pool are entitled to receive LTS. There is continuing uncertainty in this area, with competing concerns expressed by incumbents and new entrants. An issue of concern to CETCs is time lag between the provision of the service and the receipt of support for customers previously served by the ILEC.

B. Delay of Access Reform for Rate of Return-Regulated Companies

Rural and insular differences have been the principal reason for delay of access reform for rate-of-return-regulated ILECs. These differences convinced the FCC that it should not implement reform for the primarily small and rural rate-of-return-regulated ILECs in the same manner, or at the same time, that it reformed access charges for the larger price cap-regulated carriers.

On May 7, 1997, the FCC adopted rules that applied almost exclusively to the price cap-regulated ILECs to reform their access charge rate structure.⁶¹ The FCC declined to impose all but a few of these new rules on rate-of-return-regulated carriers, determining that a separate

⁶⁰ May 8, 1997 Universal Service Order, Paragraphs 178, 290.

⁶¹ *Access Charge Reform*, CC Docket No. 96-62 *et. al.*, *First Report and Order*, 12 FCC Record 15982 (1997) (Access Charge Reform Order).

proceeding for small and rural rate-of-return ILECs will provide us with the opportunity to conduct a comprehensive review of the circumstances and issues unique to these carriers.⁶²

On May 26, 1998, the FCC opened a separate access reform proceeding for rate-of-return-regulated ILECs. In the NPRM, the FCC acknowledged that rate-of-return-regulated ILECs face significantly higher costs⁶³ and recover a much larger percentage of their total revenues from access charges than do price cap-regulated ILECs.⁶⁴ Just as importantly, the Commission also acknowledged the vast differences among rate-of-return-regulated carriers stating that A[t]hey are not, however, a homogenous group, and their operating conditions vary significantly.⁶⁵ These different circumstances, the Commission recognized, A may require different approaches to reform, including a different transition to more economically efficient, cost-based interstate access charges.⁶⁶

VI. Additional Issues to Be Considered

A. Stranded Investment and Confiscation Issues

Incumbent ILECs have raised arguments that the use of cost models that do not permit an ILEC to recover its Aactual@ or Aembedded@ costs violates the Fifth and Fourteenth Amendment of the United States Constitution, amounting to a seizure of the ILEC=s property without just compensation. Other parties put forward a different viewpoint. The FCC has not fully resolved questions of stranded investment and confiscation claims. A review court will likely determine answers to remaining questions in the future. However, it goes without saying that any

⁶² *Id.*, Paragraph 332.

⁶³ *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Notice of Proposed Rulemaking, FCC 98-101 (released June 4, 1998), Paragraph 3 (Rate-of-Return Access NPRM)

⁶⁴ *Id.*, Paragraph 15.

⁶⁵ *Id.*, Paragraph 14.

⁶⁶ *Id.*, Paragraph 4.

recommendation of the Task Force, if adopted by the Joint Board and the FCC, should be designed to pass muster under the Constitution.

B. Ensuring Compliance with Section 254(k)

Section 254 of the 1996 Act closes the universal service section with a provision to protect consumers from cost allocations that might overload the cost recovery and rates for services that Congress intended to foster. Section 254(k) prohibits a carrier from Aus[ing] services that are not competitive to subsidize services that are subject to competition.⁶⁷ The subsection goes on to direct federal and state regulators to adopt Any necessary cost allocation rules, accounting safeguards, and guidelines,⁶⁸ within their respective jurisdictions, to prevent services within the definition of universal services from bearing Amore than a reasonable share of the joint and common costs of facilities used to provide those services.⁶⁹

The FCC has not yet found it necessary to open a proceeding to develop additional safeguards to ensure compliance with Section 254(k). The FCC adopted the statutory requirements of Section 254(k) in Part 64 of its rules, observing that the statute creates two new Adichotomies⁷⁰ which require additional scrutiny C universal vs. non-universal services and competitive vs. non-competitive services.⁶⁷ It codified the statutory provisions that apply to all carriers, but found that non-ILECs were unlikely to possess enough market power to make additional rules necessary for them. It pledged that it would take any future action that becomes necessary to enforce the requirements. The State Members of the Separations Joint Board have recently suggested that the issue be combined with the separations issues before them.⁶⁸

C. How to Protect ACaptive⁷¹ Customers and Ensure Competitive Neutrality When Support is Portable

⁶⁷ *Implementation of Section 254(k) of the Communications Act of 1934, as Amended*, Order, FCC 97-163, 12 FCC Record 6415 (1997).

⁶⁸ State Members= Report on Comprehensive Review of Separations, CC Docket No. 80-286, pages 9-11 (filed Dec. 21, 1998), and State Members' letter to FCC, July 17, 1999.

The portability of universal service funds and procedures for the designation of additional ETCs are firmly established. Moreover, the FCC has rules implementing portability and designation of additional ETCs. APortable@ support, and the 1996 Act's provisions for designating additional ETCs, are areas that require extensive interpretation, clarification and implementation. The FCC has not resolved questions about how to implement its portable support rules. For example, at issue is whether any obligations, such as rate restrictions and service requirements, will apply to CETCs. Also at issue, is how to foster efficient competitive entry, while avoiding uneconomic incentives to Acompete@ for support and other market distortions. Furthermore, there are questions about how to ensure sufficient incentives to bring about Areasonably comparable@ rural infrastructure, rates and services. The Joint Board's November 23, 1998, Second Recommended Decision and the FCC's Seventh Report and Order of May 27, 1999, recognize that study area support-per-line averaging presents a problem when there is competition.⁶⁹ The Washington commission has pending before the FCC a joint request with incumbent Rural Carriers in that state to permit disaggregation of support if the Commission approves the state commission's establishment of exchange-based CLEC entry and support areas.⁷⁰

D. State Efforts

The 1996 Act adopted as central goals promoting competition, preserving and advancing universal service, and encouraging infrastructure investment. Congress entrusted State commissions with substantial discretion to implement those policies to fit the facts and circumstances of their local markets. As the development of competitive local markets continues,

⁶⁹ See, Second Recommended Decision at paragraph 34.

⁷⁰ See FCC CC Docket No. 96-45, DA 98-2367, Public Notice, Common Carrier Bureau Initiates a Proceeding to Consider the Petition of Washington Utilities and Transportation Commission and Twenty Rural Telecommunications Companies for Agreement with Designation of Rural Company Eligible Telecommunications Service Areas at the Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of

the role of state commissions in preserving and advancing universal service will become increasingly important.

States have a central role in administering the rural exemption under the Act. Section 251(f)(1) exempts Rural Carriers from the obligations of Section 251(c), which requires ILECs to provide competitors with interconnection and access to their facilities and services in order to stimulate and accelerate competitive entry. The exemption can only be terminated if two events occur: (1) a carrier makes a bona fide request for interconnection and files notice of the request with the State commission, and (2) the State commission determines that such request is not unduly economically burdensome, is technically feasible, and is otherwise consistent with certain universal service provisions of Section 254. Since passage of the 1996 Act, several states have made determinations on whether or not to permit a rural ILEC to retain its exemption.

Numerous states have also established state universal service funds, including: Alaska, Arkansas, Arizona, California, Colorado, Georgia, Idaho, Indiana, Kansas, Louisiana, Nebraska, New York, Oklahoma, Texas, Vermont, Wisconsin and Wyoming. Other states have active proceedings in various stages of completion to establish such funds. Although the details of the funds differ from state to state, many states have explicitly recognized the unique characteristics faced by Rural Carriers in implementing these state universal service support mechanisms.

The responsibilities of the Task Force focus primarily on federal mechanisms and policies providing appropriate, sufficient, and predictable universal service support for Rural Carriers. However, the Task Force acknowledges the important role of state initiatives in preserving and advancing universal service.

VII. Summary

The Task Force recognizes that many of these issues are subjects of strong debates. The Task Force encourages all interested parties to read, distribute, and comment on this white paper and the others that will follow. Ongoing discussion and work on the issues will be critical to developing a practical and widely supported approach.

Over the coming months, the Rural Task Force will be working to provide recommendations to the Joint Board that are grounded in reliable data and that reflect the policy mandates enacted by Congress and the FCC. The historical and legal review contained in this white paper makes three points apparent. First, policymakers have historically recognized that rural carriers are different in terms of the costs they face and the territories they serve, and they have developed and adjusted regulatory mechanisms accordingly. Second, these differences were again recognized by Congress in its passage of the 1996 Act: in section after section, carriers serving rural and insular areas were specifically defined and special provisions adopted to ensure their customers received the 1996 Act's intended benefits. In its implementation of the 1996 Act, the FCC has also recognized this distinction, noting that extensive changes in universal service support mechanisms are not required unless they accomplish a positive policy outcome. Third, whatever mechanism is ultimately recommended must review and take account of the different circumstances faced by Rural Carriers, as a group, and by different types of Rural Carriers. A "one size fits all" approach is not likely to fulfill the 1996 Act's promise that all Americans, regardless of where they live should have access to affordable telecommunications services comparable to urban areas. Overall, we must keep in mind that while the focus of our work is necessarily on the economics of telephone companies, the ultimate beneficiaries are telephone customers who expect service to remain modern, affordable, and accessible.

Rural Task Force Mission Statement, Objectives and Principles

Mission Statement:

The mission of the Rural Task Force (RTF) is to review & evaluate alternative universal service support mechanisms which affect consumers in rural or insular areas served by rural telephone companies, and to make recommendations to the CC 96-45 Joint Board and the RTC on appropriate universal service support mechanisms, methods & policies to faithfully implement the universal service provisions of the Telecommunications Act of 1996 (the Act) for these rural or insular areas.

Objectives:

- 1) The RTF should review a broad range of options including the continuation or adaptation of the current system of support, a system of support based on forward-looking cost models and any other mechanism consistent with the universal service support and pro-competitive provisions of the Act.
- 2) The RTF should identify issues which are unique to carriers which serve rural or insular areas and recommend means to address those unique characteristics.
- 3) Where necessary, the RTF should recommend transitional mechanisms, hold harmless provisions, or modifications to minimize adverse impacts to rural or insular consumers and to facilitate investment in modern telecommunications infrastructure by service providers serving rural or insular areas.

Principles for Developing Recommendations:

- 1) Any recommendation from the RTF must conform to the requirements of the Act. Requirements of the Act relating to universal service in rural and insular areas include:
 - a) quality services at just, reasonable and affordable rates;
 - b) access to advanced telecommunications and information services in all regions of the nation;
 - c) services and rates which are reasonably comparable to those provided in urban areas;
 - d) equitable and nondiscriminatory contributions from all service providers to preserve and advance universal service;
 - e) specific, predictable and sufficient federal and state mechanisms to preserve and advance universal service;
 - f) access to advanced services for schools, libraries and rural health care providers;
 - g) interexchange & interstate rates which are no higher for rural subscribers than urban subscribers;
 - h) that, except as provided for discounted services to schools, libraries and rural health care providers, support be payable only to eligible telecommunications carriers;
 - i) support be used only for the provision, maintenance and upgrading of facilities and service for which the support is intended;
 - j) the deployment of advanced telecommunications capability be encouraged on a reasonably timely basis;
 - k) carriers not to use services which are non-competitive to subsidize services that are subject to competition;
 - l) services which are included in the definition of universal service bear no more than a reasonable share of joint and common costs of facilities used to provide those services.
- 2) Any support mechanism recommended by the RTF should be economically and administratively workable.
- 3) Any support mechanisms recommended by the RTF should be consistent with extending the benefits of a competitive telecommunications market to rural or insular areas and with the Act's principle of competitive neutrality.